Court below, but was not presented in the petition for certiorari herein.

The political-issue doctrine, insofar as it holds nonjusticiable the *legality*, as distinguished from the *wisdom*, of the act of Congress or the President involved, clearly has no basis in the separation of powers under the Constitution. Under Article III, Section 2, Clause 1, it is provided that the judicial power extends to "*all*" cases under the Constitution. It follows necessarily that *legality* of an act of Congress or the President, and *nonjusticiability* of the question thereof, represent a direct contradiction of terms. It results that treating as nonjusticiable a question of legality is a direct denial of due process. Yet it is just that doctrine of nonjusticiability of a question of legality on which respondent heavily relies here, as it does in *Sisson*. (Brief in Opposition here, pp. 6-7.)

It is also important that that doctrine be re-examined by this Court. No department of the government, and this includes the judicial, has any authority to abdicate or to transfer to other departments the powers vested in it under the Constitution. *Panama Refining Co. v. Ryan*, 293 U.S. 388, 421, 55 S. Ct. 241, 248.

2. Again, in *Sisson*, the question is raised of a breach of the free exercise clause of the First Amendment in compelling a person, in violation of his faith and conscience, to join in killing, not in defense of the homeland, but in a foreign campaign. (297 F. Supp. 902, 909-11. We have been informed that this is also shown in the jurisdictional statement in *Sisson*.) Here there is the same question in compelling a person, in violation of his faith and conscience, to join in furnishing the funds for the killing in such a campaign.

An examination of both of the above issues in the case here will be of tremendous aid to this Court in its corresponding study in *Sisson,* and with no increase in the burden upon this Court. For that reason we urge the grant of this petition for rehearing on the petition for certiorari herein. Such, it appears, was the reason for granting the petition for rehearing in *A. J. Pickett v. Union Terminal Co.,* 314 U.S. 704, 315 U.S. 386, 394. This Court could, if it desired, limit the grant to the issues presented in this petition for rehearing.

Certificate of Counsel.

This petition for rehearing is presented in good faith and not for delay, and is restricted to the grounds stated in Rule 58, Section 2, of this Court.

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